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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/721,829	11/24/2003	Michael Barth Venturino	KCX-669 (19587)	4748

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EXAMINER

HILL, LAURA C

ART UNIT	PAPER NUMBER
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3761

DATE MAILED: 02/08/2006

Please find below and/or attached an Office communication concerning this application or proceeding.



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APPLICATION NO/ CONTROL NO.	FILING DATE	FIRST NAMED INVENTOR / PATENT IN REEXAMINATION	ATTORNEY DOCKET NO.
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EXAMINER

ART UNIT	PAPER
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20060131

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Please find below and/or attached an Office communication concerning this application or proceeding.

Commissioner for Patents

Office Action Summary

Application No.

10/721,829

Applicant(s)

VENTURINO ET AL.

Examiner

Laura C. Hill

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 12/5/05.
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1,3-7,9-33 and 63-82 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1,3-7,9-33 and 63-82 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____

DETAILED ACTION

Response to Arguments

1. The rejections as previously stated in the prior Office action have been withdrawn in response to Applicant's amendments, namely the incorporation of claims 2, and 26 into independent claims 1 and 63. However, upon further consideration, a new ground(s) of rejection is made in view of Fujioka et al. (US 6,050,984), Mesek (US 4,960,477), Lucas et al. (US 4,690,719), and Ortega (US 2001/0055682) as discussed below.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

2. Claims 1, 3-7, 9-11, 15, 21, 26-33, 63-67, 69, 72, and 76-78 are rejected under 35 U.S.C. 102(b) as being anticipated by Fujioka et al. (US 6,050,984; herein 'Fujioka'). Regarding claims 1, 3-7, 9, 15, 21, 26-31, 63-67, 72, and 78 Fujioka discloses an absorbent diaper 11 having an absorption core 14 interposed between back sheet/outer cover 12 and top sheet/liner 13 (column 3, lines 1-3), the hour-glass shaped absorption chassis structure including a middle/crotch portion 19 being narrower than a front portion 18 and rear portion 20 (figure 1A), said front portion 18 extends from a front edge to the middle portion and defining an outermost lateral periphery (column 3, lines 15-19 and figure 1A), the absorption core 14 comprising a pair of opposing lateral flaps

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18a, 20a folded onto a middle portion [Note the middle portion can be either crotch region 19 or the lateral distance between two longitudinal fold lines L and L in figure 1A), front portion and rear portion of absorption core (column 4, lines 25-30 and figure 1B), the middle portion 19 when lateral flaps are folded having a uniform *thickness* two or three times the thickness of portion 14a where there are no flaps (column 3, lines 29-32 and lines 38-41, column 4, lines 59- 65, and figures 1 and 2A-2C), and thus inherently having a folded portion basis weight two of three times the unfolded portion basis weight [Note that Fujioka inherently discloses a basis weight since thickness is increased by increasing the basis weight as taught by Ortega, US 2001/0055682, paragraph 0003 and furthermore since thickness and basis are variables directly related to each other]; each of the flaps 18a, 20a having a width adjacent to the middle portion 19 that is from 25-100% of the middle portion 19 width (figure 1A).

Regarding claims 10-11 and 69 Fujioka discloses lateral flaps 18a, 20a have a widest section adjacent the middle portion (i.e.: widest at front and back sections 18, 20, respectively).

Regarding claims 32-33 and 76-77 Fujioka discloses after lateral flaps 18a, 20a have been folded the middle portion comprises two or three layers of material (figures 2B and 2C).

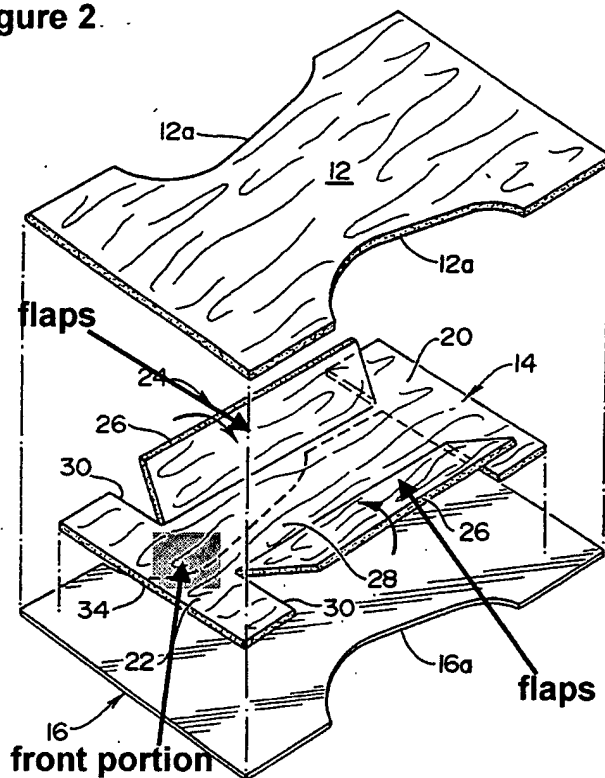
Claim Rejections - 35 USC § 103

The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

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3. Claims 12-14, 16, 22-24, 68, 70, and 73-75 are rejected under 35 U.S.C. 103(a) as being unpatentable over Fujioka et al. (US 6,050,984; herein 'Fujioka') in view of Mesek (US 4,960,477; herein 'Mesek'). Regarding claim 12 Fujioka *does not expressly disclose* first and second slits. **Mesek** discloses absorbent disposable diaper 10 with a outer cover layer 16, facing layer/liner 12 and absorbent batt 14 sandwiched between these two layers; absorbent structure having a front, rear and middle portion with the middle portion being narrower than the front portion; a pair of opposing lateral side flap portions 26 extending substantially the entire length of the absorber and connected to medial portion 28; side flap portions 26 defined by lines of cutting 30/first and second slits and side flap portions 26 being folded onto the front, middle and rear portions of absorbent diaper 10; each of the flaps in an unfolded state extending beyond the width of the front portion (column 7, lines 4-12, 30-32, and 42-46 and figure 2), said slits form flaps that forms a section with increased absorbent capacity in the middle crotch region (column 10, lines 64-68). One would be motivated to modify the flaps of Fujioka with the slits of Mesek to provide an article with increased absorbent capacity in the folded region since both references disclose disposable absorbent articles with folded flaps yielding portions with varying thicknesses and hence varying basis weights. Therefore, it would be obvious to one of ordinary skill in the art at the time the invention was made to modify the flaps and thus providing flaps with slits.

Figure 2.



Regarding claims 13-14, 16, and 68 Fujioka/Mesek disclose the first and second slits as discussed above with respect to claim 12. Mesek further discloses the slits are substantially perpendicular to the longitudinal axis but also may extend in a diagonal non-linear fashion (column 7, lines 37-39 and figure 2). One would be motivated to modify the flaps of Fujioka with the non-linear angled slits of Mesek for enhanced folding in the folded region since both references disclose disposable absorbent articles with folded flaps yielding portions with varying thicknesses and hence varying basis weights. Therefore, it would be obvious to one of ordinary skill in the art at the time the invention was made to modify the flaps and thus providing flaps with non-linear angled slits.

Regarding claims 22-24 and 73-75 MeseK further discloses the absorbent batt 14 of disposable diaper 10 with a densified paper-like skin containing a web interface with a quantity of superabsorbent material (col. 4, ll. 1-3, ll. 52-60). The web interface of the absorbent is capable of being air-formed since MeseK discloses an absorbent batt with the same structure and since the process of making the web is given little patentable weight. If a prior art structure is capable of performing the intended use as recited in the preamble, then it meets the claim. See, e.g., *In re Schreiber*, 128 F.3d 1473, 1477, 44 USPQ2d 1429, 1431 (Fed. Cir. 1997). One would be motivated to modify the article of Fujioka with the superabsorbent and pulp fibers of MeseK for enhanced absorbency since both references disclose disposable absorbent articles with folded flaps yielding portions with varying thicknesses and hence varying basis weights. Therefore, it would be obvious to one of ordinary skill in the art at the time the invention was made to modify the article and thus providing superabsorbent particles and an air-formed article.

Regarding claim 70 Fujioka *does not expressly disclose* absorbent chassis structure is rectangular in shape. **MeseK** discloses the article as discussed above with respect to claim 12. MeseK further discloses the absorbent chassis structure 14 with a rectangular shape (column 4, lines 39-44). One would be motivated to modify the hourglass shaped absorbent chassis of Fujioka with the rectangular chassis of MeseK for reduced material waste since both references disclose disposable absorbent articles with folded flaps yielding portions with varying thicknesses and hence varying basis weights. Therefore, it would be obvious to one of ordinary skill in the art at the time the

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invention was made to modify the article and thus providing a rectangular-shaped chassis.

4. Claims 17-20 and 78-82 are rejected under 35 U.S.C. 103(a) as being unpatentable over Fujioka et al. (US 6,050,984; herein 'Fujioka') in view of Lucas et al. (US 4,690,719; herein 'Lucas'). Fujioka *does not expressly disclose* the absorbent structure having a non-uniform basis weight with respect to the middle portion and lateral flaps. **Lucas** discloses nappy pants 2 with middle portion 8 of absorbent structure 1 having triple thickness [and hence non-uniform triple basis weight] in lateral parts 9 (column 3, line 65-column 4, line 4 and figures 1-2) to provide an article that can be manufactured without any waste while maintaining its effectiveness as an absorbent (column 2, lines 2-8). One would be motivated to modify the absorbent of Fujioka with the non-uniform basis weight of Lucas for enhanced article performance without manufacturing waste since both references disclose disposable absorbent articles with portions having varying thicknesses and hence varying basis weights. Therefore, it would be obvious to one of ordinary skill in the art at the time the invention was made to modify the folded flaps, thus providing lateral flaps having a basis weight differential than the front and rear portions, etc.

5. Claims 25 and 71 are rejected under 35 U.S.C. 103(a) as being unpatentable over Fujioka et al. (US 6,050,984; herein 'Fujioka') in view of Ortega et al. (US 2001/0055682; herein 'Ortega'). Fujioka *does not expressly disclose* basis weight values. **Ortega** discloses basis weight is a result effective variable since it is a result of density and thickness (paragraph 0003). Therefore, it would be obvious to one of

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ordinary skill in the art at the time the invention was made to modify the absorbent structure with the basis weight values, since it has been held that discovering an optimum value of a result effective variable involves only routine skill in the art. *In re Boesch and Slaney*, 617 F. 2d 272, 205 USPQ 215 (CCPA 1980).

Conclusion

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Fahrenkrug (GB 2,195,541A) is cited for showing incontinence pad having an absorber member in which each edge 72,74 has a triangular flap 40,52 formed by an angled cut 68,70 and a fold line 84,86, each of which is folded over to form a narrower triple thickness area in part of the member.

Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the date of this final action.

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Any inquiry concerning this communication or earlier communications from the examiner should be directed to Laura C. Hill whose telephone number is 571-272-7137. The examiner can normally be reached on Monday through Friday (off every other Friday).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Tatyana Zalukaeva can be reached on 571-272-1115. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Laura C. Hill
Examiner
Art Unit 3761

LCH



TATYANA ZALUKAEVA
SUPERVISORY PRIMARY EXAMINER

